were refuſed, whoſe allowed? tell us their Trades, Qualities, Fortunes, and places of aboade: who read the Pannel, who carried it away, who deliver'd it to the Secondaries? were thoſe men returned, did they appear, did they do the buſineſs cleverly? have you not heard of the ſame thing afterwards at the other Taverns? were you never invited to meet ſome honeſt Juſtice, Jury-men, and whom by Name, at ——— who altered the free-holders book, and what artifices were uſed at the Tryal of the Seven Biſhops, and who gave the Inſtructions to the Jury beforehand, and what were thoſe Inſtructions, and which of the whole pannel were ſure Men? did you never obſerve a ſett of Security Men, and whom by name, plying in the Hall, as the Watermen at the Stairs? did you never know, and how often, a Worſhipful Deputy pack a Jury, and make himſelf foreman of it? what gratuity have you known in ſuch caſe, and what difference as to that made between a criminal cauſe and a civil, and between a Tryal at the Bar and th' old *Bayly*? Pray tell us, did you never ſee a Jury treated at *Weſtminſter* or elſewhere, after a criminal Tryal, what entertainment and by whom, what Money too, and to which of them given, to diſtribute? Come, come, out with it, tell us what did the Gang uſe to lay upon thoſe occaſions? you need not fear, the heads are in the Tower now?

7. *Concerning State Tryals.*

What Judges, Counſel, Jury, and Witneſſes were in *Colledge*'s Tryal, who took his Papers away, and who did manage it, and how; declare the like concerning *Ruſſel*'s, *Sidney*'s, and *Corniſh*'s, and who pronounced the Sentences? and the ſame for the Soldiers; what Juſtice of Peace committed them, what Juries in Towns of Countries found Bills againſt them; what Judges tryed them, what Juries convicted them, and who condemned them? and pray tell us in thoſe Tryals how much might be ſpent in Juries dinners, and how many Guineys they had in each, and by whom paid, and how long that trade of gratifying Juries in Capital Cauſes hath been in faſhion, and by whom adviſed and introduced?

8. *Concerning the Weſtern Campaign.*

What Judges went, what Counſel, what Aſſiſtants, and what Examiners? how was my Lady *Liſle*'s Tryal managed, who were Jurors, how returned, and by whom? how often was the Pannel altered, and by whom? what Evidence was given, what Records produced againſt *Hicks*, for harbouring of whom ſhe was Executed? to be ſhort, how much Blood was there ſpilt, and how much Money got by it, and by whom? who invented that dextrous way of diſparching the Crowd, and who managed it with moſt applauſe? was there none hanged without Proceſs, Tryals, or Indictments, tell us by whom, and how many? do you know of any Act of attainder produced as their Warrant? and after that buſineſs was over in the *Weſt*, were the Soldiers diſbanded, or were they billeted againſt the Peoples wills? do you know of any Juſtice of Peace that did ſo? do you know any Lawyer or Juſtice that did it? declare.

9. *Concerning the high Commiſſion Court.*

Who adviſed it? who drew it? who ſate in it? what Sentences did they paſs, and againſt whom, and with whoſe conſent? how often was it renewed, and what added? who were left out, and who put in, who went down to *Oxford* to ſee a Smith break open Doors? who attended them? who was Clerk, Regiſter, and Meſſenger to that Court? declare.

10. *Concerning Witneſſes.*

Who hired *Saxton* againſt the Lord *Delamere*, Sir *R. Corton* and Mr. *Offley*? what had he for ſwearing? who releas'd him out of *Newgate*, and where is he now? who Brib'd the two Clerks of the Houſe of Commons to abſcond, when lawfully Subpœna'd to bring their Books and give Evidence in behalf of that Noble Lord, &c. what reward had they? and whoſe Money was it? and tell what Fees they extorted from Mr. *Williams* at his Tryal for the uſe of their Books, and who paid them for their ſervice at that Tryal againſt him?

11. *Concerning Fines, &c.*

Who had the Revenue of the Arch-*Biſhopric* of *York*? who receiv'd it? and to whoſe uſe paid? to whom and to what uſe was the E. of D——'s fine of 30000 l. given? what became of Mr. *Williams*'s 10000 l. who was it paid to? what purchaſes were made? what Chappels, and Jeſuits Schools built? of whom purchaſed? By whom and how?

12. *Concerning the Earl of Eſſex's murder, &c.*

Who mannaged the Coroners Inqueſt at the E. of *Eſſex*'s murder? who waſh'e his Room? and what became of the Lord *Allington*? how did he dye, when, and where, and who did he drink with before his death? and how dyed Captain *Cheek*, if you can tell?

13. *Concerning chooſing the Parliament in 85.*

Who mannaged the Parliament in 1685. who appointed the Perſons that were choſen, and what methods were taken therein, and by whom? and what careful Inſtructions were ſent to the Militia Officers, Juſtices, Sheriffs, and Clergy about it, &c?

14. *Concerning Mr. B's eſcape.*

Who committed him, and for what, and whither, and how long was he there, how got he out, who bailed him, and what were his bail, and in what Sums? which of the proſecutors conſented to it, what Counſel adviſed it, and what Fees were paid for the ſame? declare the truth and nothing but the truth; So help you God.

FINIS.

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THE CASE OF SUCCESSION TO THE CROWN OF ENGLAND STATED,

In a Letter to a Member of the Honorable Houſe of COMMONS.

Being an Anſwer to that Pamphlet that pretends to prove the Parliament hath no Power to alter Succeſſion.

By *W. G.* Gent.

Printed, 1679.

CASE

The Case of Succession to the Crown of England *Stated, in a Letter to a Member of the Honorable House of* Commons.

SIR,

I Hope that Impudent Scurrulous *Pamphlet*, stuffed with Fallacious Arguments, will have no effect upon you, and the rest of our Noble *Patriots*, who so Religiously, and with a daring *Integrity* stands up for the Vindication of our Country, from *Popery* and *Slavery*. As for those that are, their Sense was always so, and would be glad of any colourable Pretext, to back their Damnable Opinions, and Justifie their introducing of absolute Tyranny, under the Title of Divine Right, which consists, neither with the Law of God, nor Nature, the Two Fundamental Points our Author goes on, so as to invallidate those, all he saith falls to the Ground, which I hope I shall make appear in the following Discourse. Our Cunning *Sophister* begins with the Parliaments Power about Succession, Grounded on the Thirteenth of *Elizabeth*, Chapter the First, and feign would inforce this Opinion, that it neither affected him, as he Writ to, being a Member of Parliament, because he had an Interest in the Legislative Power, nor me, speaking of himself, because not Consulted with, and this he pretends to prove from Presidents, wherein the Country was Consulted before the passing of any Extraordinary Act, which would be an Argument, if he could really prove, that it is always absolutely necessary to Consult them, before the passing any important Bill, which he neither doth nor can, it being the constant practice to the Contrary, by reason all persons that are not in the Lords House, are in the House of Commons, partly coagmentive, and partly Representative, that is, in Person, or by Representation,

Cookes Inſtitutes 4to *Fol.* 2. and ſo need not be Conſulted, as abſolutely neceſſary to the paſſing of any Bill, ſo much to his firſt reaſon, as to his harangue of himſelf, I ſhall paſs it over and come to thoſe Maxims, which he ſaith are not to be denyed, which in truth are not grantable to him in that ſence he takes them.

The firſt is, that God, Nature, and the immutable Cuſtoms of the Realm have placed things above the influence and coertion of the Power of the Three Eſtates, Kings, Lords, and Commons, which being meant of the Government is not to be granted for ſeveral reaſons that enſue hereafter, and here he hath recourſe to the Reverend Judges, as ſo many Delphian Oracles, or infallible expounders of the Statute Laws, which in caſes doubtful, i'le admit, but not always their opinion for Law, knowing they always were, and will be influenced according to the times, but of Statutes, poſitive and plain, there needs no ſtrained Expoſition, as all are, that tend to this purpoſe.

So that, our ſcribling Impoſter diſguiſing himſelf, under the pleaſing Character of a true Zealot for his Country at this time, the moſt acceptableſt if he can but make theſe Statutes, be thought intricate, and to contain matters of greater weight, then is obvious to any indifferent Capacity, then comes into play their Conſcientious Expoſiters the Judges, who, as he ſaith, have declared in all ages many Statutes void, without wronging their Conſciences and integrity, it may be ſo, and God forbid, but that ſome Judges ſhould be honeſt in all Ages.

But then on the other hand, their hath been many bad Judges as in the time of *Henry* the Second, ſeveral Judges Suffered for going contrary to Law; and the like in *Richard* the Seconds time, for the Expounding of the Statutes, contrary to Law, and yet

yet ſuch as theſe our Auhotr would have to be Preſidents, if we would rely upon him, and not conſider that the Law varies according to the times and circumſtances.

For all Laws took their Commencement, from the occaſion of making thoſe Laws, which varies almoſt every Kings Reign; ſo as to grant him his Opinion is to enſnare us, they preſuming upon the Judges Favor, let the worſt happen (which is to have an Act paſt againſt the Duke) in having a favorable Conſtruction upon the Statute, to their advantage, which may be very much feared, ſince the Chief of them is ſo ready, as with a daring Confidence to ſay, that the bringing in of Popery by Blood ſhould not be impeeded by ſhedding of Innocent Blood. Let the Country ſay what they would, and ſo releaſed the Poyſon Doctor, whoſe Crimes were as fully proved, as any that dyed before upon the ſame account; Thus he thinks ſlyly to Inſinuate his Opinion under the pretence of both Law and Reaſon, which in it ſelf rightly conſidered, carries neither. Therefore I hope our Noble Patriots are Wiſer then to be Guld out of all they have, by ſuch Fopperies.

Next, I come to enter upon the Conſiderations, on which our Pamphletiers grounds the Parliaments diſability, which are theſe, the Lawes of God and Nature, the Laws of *England*, Common and Statute, the Cannon and Civil Laws, Hiſtory, Antient and Modern Records of Parliaments, and other Courts, to prove which he and his Tribe takes it *pro Confeſſo*, which none elſe doth, that the Crown is defendable by the Laws of God, Nature, and the Succeſſion inſeparably, and next to proxanimity of Blood, and ſo all Statute Laws are void to the Contrary, which being denyed and made to appear to the contrary, the Statute ſtands in force,

force, to clear which, we must see the nature of Monarchy, and how it began.

Men at the first, before they were associated in Societies had no particular Laws to be ruled by, but the Law of Nature or of Reason, which is all one which *Lex Naturæ*, leaves all things Common which is *Status Belli*, and gives a Man a right to what he can get, there being no publick Laws to distinguish and defend properties, and leaving Man to Act as a Man, that is, according to his reason (to which end God gave it him) which is to Act that, which is good and best for himself, for reason is but a faculty to use every thing suteable to it's Nature, and to make it subservient, and profitable to him.

So, that being a rational understanding Creature by Nature, whose Principal Inclination is to true Knowledge, on which both present and future happiness doth depend, his outward carriage is naturally proportionable to his inward parts, for whatsoever is to be done in a peculiar reference to any thing, is so to be done as shall be most necessary and profitable, for the obtaining of that thing, and Man considering how to make himself happy, and his Life comfortable, which is the effect of his Reason; and knowing he can never attain unto his desires, so long as Men lives without Laws, which should restrain the strongest from invading the weaker. Therefore they enter into a Confederate State of Society, being also enduced to it upon several other Reasons, as

First, for mutual Love and Society, and also God and Nature having so Ordered Man-kind, that no one hath all things sufficient of his own, for his Necessity, but wants the help of his Neighbor, and so desireth Mutual Society, and also for Protection sake, both to his Person and good, from one more Powerful and able, who

who may assault his Person, and invade his Property.

And, since it is evident, that men are desirous to live together, upon these Considerations, yet cannot they live together quietly upon the reasons aforesaid, unless by some agreement, they chose some wise Person to arbitrate all differences, that should arise. When passion stirreth up Contention, the stronger compelling the weaker to obedience, and thus you see the Nature of Civil Government appear, and the Laws of Man to be established, which is for the good of them for whom it is instituted, according to which, is that of *Aquina's* *Lex Humana est orationis ordinati ad bonum Commune, ab eo qui curam Communitatis habet, promulgata.* As likewise, that of *Horace, Sater, 3. Ipsa utilitas justi prope Mater & æqui,* which is that profit and Common good made Men live first together, both which appears by what hath been said; The People (defined by *Cicero* according as St. *Austin* relates, is *cætus multitudinis hominum juris consensu & utilitatis Communione associatus, is pertinent* to our discourse) have not only a great interest in the making of Laws, without whom, none can be made according ro this of *Demosthenes,* who saith, the Law is the Common ingagement of Society, that is, of a Society, or as *Julian* a great Lawyer in the Roman Emperors times, who saith, *ipsæ leges nullâ aliâ ex causâ nos tenent quam quod judicio populi receptæ sunt.*

From this Discourse is to be gathered this Conclusion, that the end of Civil agreements, is the Tranquility and safety of humane Society; and all Laws, that tend not to the publick good, nor preserves that right due to the Commonality, are unjust and void *propter defectum justitiæ legalis,* which always does or ought to intend the publick good.

So

So that, here you ſee, that Monarchy is far from being *de Jure Divino*, or by the Law of Nature, but ariſeth by conſent; ſo that the ſucceſſion is transferable, when the publick ſafety requires it, and ſo all Statutes tending to that publick ſafety are good, being grounded on the ultimate end of all Laws, and Civil Government, which is common ſafety: Yet if we had no Law for the Succeſſion, as we have Laws, *Ariſtotle* ſaith, that Laws ought to be accommodated to the times and Cuſtoms, and if one change, the other to be changed with them, unleſs a greater damage come by the new then by the old.

If Monarchy is by election and agreement, then it is neither *de Jure Divino* nor *de Lege Naturali* but it is by election and agreement, as hath been ſhewed; *Ergo*, the Concluſion is clear enough: And again, if the Law of Nature Commands Common ſafety, then it allows the means to attain to it, but it Commands Common ſafety, *Ergo* the means are allowed. And the means and way to preſerve the Common good and ſafety is by Parliaments. So that you ſee by the Law of God and Nature, the Parliament may determine things in dangerous caſes, againſt the power of which, that is, of Parliaments demanding or enacting that, which tends to the publick ſafety; no Statute nor Cuſtome can prevail, but is void and unjuſt, as being againſt the Law of Nature it ſelf. *Doct. & Student.*

In the next place, let us ſee, what inconvenience will happen according to his Doctrine. Our *Magna Charta* is of no force, and all the Laws are but as ſo many Rules amongſt our ſelves, but while the King pleaſes, it cannot be kept within any bounds, but throws off this well Conſtituted Government, and brings in abſolute Tyranny, giving Power to invade any mans Life and property at plea-

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ſure, if this be agreeable to reaſon or to the end of Government, let all men Judge. But I hope the Experiment will never be tryed here, whether it is or no; And further it is againſt the Law of Nature, that Succeſſion is inſeparably incident to the next of Blood; for if no ſafety can be expected from the Succeſſor, as may oftentimes happen; as when the Perſon is incapable of Government, in either being a natural, that is not fit at all to Govern himſelf, cannot be thought fit to Rule the Common-wealth; or elſe one, who minds his own profit more than the publicks: For Civil Government was inſtituted, primarily, for the publick good, which was the ends of its inſtitution and but ſecondarily to the profit of him, to whom the care of adminiſtration was committed.

And therefore when theſe two happen, they are wanting to themſelves, if they do not ſeek there own good and ſafety; for what hath nature endued us with reaſon, but to ſeek our own ſafety. Therefore, if we do not, it is the ready way to run into abſolute ruin, and deſtruction, which both the Laws of God, Nature and Man commandeth to the contrary, which is evident by the more particular Laws, according to Times, Places, and Cuſtoms, drawn from the General Principles of the Law of God and Nature, only to point out a way of Happineſs to Man, all which, would be alterable at the will of the Succeſſor, according as he is good or bad, but theſe Commanding nothing, but what is morally good are unalterable, by all which it appears, the Imperial Crown is not *de Jure Divino*, nor, that it is unſeparably incident to proximity; but is alterable when neceſſity requires. For no body will deny.

But that it ſhall lineally deſcend, when the ſafety of the State enforceth not to the contrary. It much behoveth our Author to make good, what he ſaith to prove,

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that he from whom our preſent King claims, and is deſcended from, had it *de Jure Divino*, as for the *Britains*, who were the true Kings of this Iſland, and by *Cæſar* in his Commentaries thought to be *Indigenæ* except the South-part, which might be peopled and take there manners and cuſtoms from the Gaules; what their Government was is not clearly made out, when *Cæſar* came but after the Romans left this Iſland, from *Lucius* being then King, at the Romans departure to the time of *Cadwallador*, who was the laſt of the Britiſh Blood, the *Britains* loſt all by degrees to the *Saxons*, whom, I hope, none will conclude came in by Divine right. For then Conqueſt is by Divine right, and then I am ſure a great many abſurdities will follow.

And the *Saxons* Warr'd amongſt one another, till *Egbert* the 18*th* King of the *weſt-Saxons*, got the whole Kingdom, and named it, *England*, whoſe deſcendents Married with no Britiſh Heirs, or that was likely to be Heirs; for *Ethelbold*, *Ethelwolphs* Son, took his Fathers Widow *Judith* to Wife, but had no Iſſue by her, and dyed; and ſhe was afterwards Married to the Earl of *Flanders*, from whom after many deſcents, came *Maude* Wife to *William* the Conqueror, from whom our Kings are deſcended.

Next comes *Ethelbert Ethelbolds* Brother, and Reigned a while, and dyed without Iſſue; next to him ſucceeded his Brother *Ethelred*, who dyed alſo Iſſueleſs; to whom ſucceeded his Brother *Alfred*, to him ſucceeded his Son *Edward* Surnamed the *Elder*, who hath Three Wifes, by which he had Six Sons, whereof Three of them dyed, and the Eldeſt Son by Name *Athelſton* ſucceeded his Father, who dyed unmarried; to whom ſucceeded his Brother *Edmund*, who dyed and left two Sons, *Edwyn* and *Edgar*; *Edwyn* ſucceeded and dyed without Iſſue, to him ſucceed-

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ed his Brother *Edgar*, who had a Baſtard, named *Edward*, that ſucceeded him, who dyed without Iſſue; and another Son called *Eſhelred*, who came to the Crown by the death of his Brother, Killed by his Mother *Elfrida*, he Married Two Wifes, by the firſt he had *Edmund*, and by the ſecond, who was *Emma*, Siſter to the Duke of *Normandy*, he had *Edward* and *Alfred*. *Edmund* ſucceeded his Father, and had two Sons, *Edward* called the outlaw and another, this Son *Edward* Married the Emperor *Henry* the ſecond Daughter, by whom he had *Edgar Ethling* the right Heir to the Crown, though he never had it, from whom our preſent King claims, and according to our Pamphleteer, joyns the *Britiſh*, *Saxons*, *Normands*, and *Scottiſh* Blood.

Which to the Three laſt doth fully appear, but to the firſt it is not clear, if at all, becauſe the *Britiſh* Blood Royal ended in *Cadwallader*, as Hiſtory plainly ſhews, and it doth not appear that the *Saxons* Married with any of the Blood Royal, that could give them a title more powerful, then that of their Sword, ſo that the *Saxons* came in by Conqueſt, which is not *de Jure Divino*, and *Edgar Ethlyn* was a *Saxon*, from whom our King claims: And therefore claims by deſcent, according to the Conſtitution of our Government and no otherwiſe.

In the next place it is evident by Scripture, that Proximity is not always inſeparably incident to Succeſſion; for *Jacob* paſt over *Reuben*, *Simeon*, and *Levi*, and placed the Scepter on *Judah*, and it was ſo far from diſpleaſing of God, that to ſhew it was not diſpleaſing to him, he Confirmed it, *Gen.* 49. 10. *The Scepter ſhall not be taken from* Juday, *nor a Law giver from his Thigh*, which is a Propheſie of a future Royal dignity of that Tribe; where you may obſerve that priority and proximity was not Material, being not obſerved in laying a Foundation of a future Royal

Government, and ſeveral other remarkable inſtances; as of *David*, *Solomon*, who came to the Crown by a promiſe made by *David* to *Bathſheba*, who was before his Concubine; and *Jeroboam*, and *Jehu* which our Pamphleteer would fain avoid, by ſaying, that the Law and not the Example is to be followed.

Gods will is a Law to us, and therefore by following his Examples we obey his Laws, and therefore theſe being the Acts of his will, we ought to follow, as being grounded upon that, which is the Eternal Law, that is, Gods will. Theſe Princes were not made Examples of, till many and great tranſgreſſions, neither doth this intend any other, then when ſerious and weighty Conſiderations debarrs the Succeſſion, elſe not: And you may ſee it was too pinching for him, which made him paſs it over ſo ſlightly, by endeavoring to ſalve it with ſuch a reaſon, as makes the Examples the more Valuable upon this account, and renders them above Diſputation. Thoſe Authors he quotes, as St. *Jerome* and St. *Chryſoſtom* are only in the affirmative, that proximity and priority is preferrable in common caſes, which none will deny, but not negatively (which muſt prove what he intends) that when the ſafety of the Nation is in danger, that they are not waiveable, for that would be a flat contradiction of the Scripture, if that was their Opinion, as he cites them for. And then I may ſay whether it is better to believe God or Man; for the Example in the Scripture are to the contrary, and as for *Bodine* the *French* Lawyer, the practice of his own Country confutes his Opinion, by reaſon of the *Salique* Law, which is a moſt unjuſt Law, as not agreeable to the Law of God, and but a pretence to juſtifie the Title of an Uſurper.

And moreover, muſt theſe Men give Laws of *Succeſſi-*

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on to Princes, when God himſelf never did, neither to his own People the *Iſraelites*, nor to the other Nations of the World, by all which it appears, that the Three Eſtates of the Kingdom, *viz.* King, Lords, and Commons, may diſpoſe of the Succeſſion, for the ſafety of the People, that being the end of Civil Government. And that the Imperial Crown of *England*, is due only to the preſent poſſeſſor, by deſcent and Birth-right Confirmed by ſeveral Acts of Parliament; and not by Divine right; an opinion exploded not only as falſe and dangerous, notwithſtanding that Act of King *James*, which in its ſelf cannot oblige againſt the Common ſafety, and obliges no further then agrees with publick good and general ſafety, and not to be eſteemed of by any, but thoſe who are admirers of Slavery, and who, by my conſent, were it not Communicable, ſhould be the firſt now to feel its Effects.

The next thing he goes upon, is the fidelity due to the Prince, which is adjudged by the Lord Chancellor, and the Judges in *Calvins* caſe, the *6th Jacob's*, to be due by the immutable Law of Nature, with fidelity, according to the premiſed Original of Government, is due by nature to the Prince; ſo long, as he lives and intends the publick good, but when he declines from that, Querie, for then I am bound patiently to let him Cut my Throat, if he will, which is *repugnant* to the Law of Nature, which Commands my *preſervation*, which perhaps was the reaſon, why the Barons in King *Johns* time took up Arms for their liberties, but this point being a greater *Noli me Tangere*, Then the Succeſſion *de Jure Divino*, which may make People looſe in their Allegiance.

I ſhall ſay no more of at this time, and as to the Statutes 24. *Henry 6th.* Chap. 12. 34. *Henry* 8. Chap. 1. 23 of *Eliz.* Chap.